IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

TUESDAY, THE 31ST JULY 2007 / 9TH SRAVANA 1929

WP(C).No. 17880 of 2007(C)

OS.612/1997 of II ADDL.M.C., ERNAKULAM

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PETITIONER:

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1. JANAKI, W/O VITHARI,
EDATHALA PARAMBIL HOUSE, KANICHIRA COLONY,
KUREEKKAD VILLAGE, KANAYANNOOR TALUK.

2. ALLY, D/O VITHARI,
EDATHALA PARAMBIL HOUSE, KANICHIRA COLONY,
KUREEKKAD VILLAGE, KANAYANNOOR TALUK.

3. NALINI, D/O VITHARI,
EDATHALA PARAMBIL HOUSE, KANICHIRA COLONY,
KUREEKKAD VILLAGE, KANAYANNOOR TALUK.

4. AJITHA, D/O VITHARI,
EDATHALA PARAMBIL HOUSE, KANICHIRA COLONY,
KUREEKKAD VILLAGE, KANAYANNOOR TALUK.

5. AJI, S/O VITHARI,
EDATHALA PARAMBIL HOUSE, KANICHIRA COLONY,
KUREEKKAD VILLAGE, KANAYANNOOR TALUK.

6. ANIL, S/O VITHARI,
EDATHALA PARAMBIL HOUSE, KANICHIRA COLONY,
KUREEKKAD VILLAGE, KANAYANNOOR TALUK.

BY ADV SHRI. ALIAS M.M
SHRI. ABEESH JOSE
SHRI. DIAS CHERIAN
SHRI. ANIL JOSEPH

RESPONDENTS:

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1. SATHEESAN, ELATHIRA HOUSE,
EDATHRA KARA, THALAVADY VILLAGE, RESIDING AT
THIRUNILATH HOUSE, KANICHIRA COLONY,
KUREEKKADU VILLAGE, KANAYANNUR TALUK.

2. PRABHA, W/O SAHADEVAN, EDATHARA HOUSE,
EDATHRA KARA, THALAVADY VILLAGE,
THIRUNILATH HOUSE, KANICHIRA COLONY,
KUREEKKADU VILLAGE, KANAYANNUR TALUK.

BY ADV. SRI.V.RAJENDRAN (PERUMBAVOOR)
SRI.GEORGE VARGHESE KIZHAKKAMBALAM

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 31/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXTS:

EXT.P1: PHOTOSTAT COPY OF THE ORDER DT.1.10.2003 OF THE HON'BLE 2ND ADDL. MUNSIFF'S COURT, ERNAKULAM IN O.S.NO:612/97

JJ /TRUE COPY/

P.A. TO JUDGE

M.N.KRISHNAN, J.

WP(C)No. 17880 OF 2007 C

Dated this the 31st July, 2007.

JUDGMENT

This writ petition is filed seeking to set aside the order passed in I.A.7081/97 in O.S.612/97. It was an application filed by the defendant for amending the written statement by incorporating a prayer for recovery of possession. The court below allowed it. It is against that decision the plaintiffs have come up with this writ petition. The learned counsel appearing for the respondents in the writ petition submits that he had already filed a new suit for recovery of possession on the strength of title and it is likely to be numbered in a day or two and therefore since independent suit is filed, the amendment application need not be pursued further in this case. The said factum is recorded and in the light of the submission that a new suit is being filed the order under challenge is set aside and amendment is disallowed. The court below is directed to consider one point viz., the joint trial of this case along with the new case filed by the defendant so that one set of evidence will be sufficient to dispose of the matter. In order to enable that suit to be ripened for trial the court may postpone

the trial of this suit though of the year 1997 for a period of two months. Writ petition is disposed of accordingly.

M.N.KRISHNAN
Judge

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